

Mojave Desert
Air Quality Management District



Draft
Staff Report
Proposed Amendments to
Rule 219 – *Equipment Not Requiring a Permit*

For adoption on
06/28/2010

14306 PARK AVE, VICTORVILLE, CA 92392-2310
PHONE: (760) 245-1661
FAX: (760) 245-2699

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STAFF REPORT

Rule 219 – *Equipment Not Requiring a Permit*

I. PURPOSE OF STAFF REPORT

A staff report serves several discrete purposes. Its primary purpose is to provide a summary and background material to the members of the Governing Board. This allows the members of the Governing Board to be fully informed before making any required decision. It also provides the documentation necessary for the Governing Board to make any findings, which are required by law to be made prior to the approval or adoption of a document. In addition, a staff report ensures that the correct procedures and proper documentation for approval or adoption of a document have been performed. Finally, the staff report provides evidence for defense against legal challenges regarding the propriety of the approval or adoption of the document.

II. EXECUTIVE SUMMARY

Previously, all agricultural activities were exempted from air district permitting by State law (former Health & Safety (H&S) Code §42310). The federal government required the State of California to regulate, through permitting, many previously exempt agricultural activities. California responded by adopting SB 700 in 2003 (H&S Code §40724-40724.7) which contains provisions requiring air districts to adopt rules in part to regulate pollution from larger agricultural sources in the same manner as non-agricultural sources with similar equipment. The proposed amendments to Rule 219 – *Equipment Not Requiring a Permit* will implement portions of the provisions of SB 700 by requiring all agricultural sources that meet certain thresholds of animals or regulated pollutants to obtain permits in the same manner as other regulated sources. This rule action is a part of the entire implementation of SB 700 which also includes the adoption of Rules 403.3 – *Fugitive Dust Control for Off-site Agricultural Sources*, 403.4 – *Fugitive Dust Control for On-site Agricultural Sources*, 1160.1 – *Internal Combustion Engines in Agricultural Operations*, and 1186 – *Confined Animal Facilities*.

This amendment will also add a provision to include negligibly emitting fuel cells as specific equipment not requiring a permit. This is a similar provision to those contained in neighboring air district rules.

III. STAFF RECOMMENDATION

Staff and the Technical Advisory Committee recommend that the Governing Board of the Mojave Desert Air Quality Management District (District) adopt the proposed amendments to Rule 219 – *Equipment Not Requiring a Permit* and approve the appropriate CEQA documentation. This action is necessary to implement the provisions of Senate Bill 700 of 2003 (H&S Code §§40724-40724.7) and to include negligibly emitting fuel cells as specific equipment not requiring a permit.

IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for the procedurally correct amendment to Rule 219 – *Equipment Not Requiring a Permit*. Each item is discussed, if applicable, in Section V. Copies of related documents are included in the appropriate appendices.

FINDINGS REQUIRED FOR RULES & REGULATIONS:

- X Necessity
- X Authority
- X Clarity
- X Consistency
- X Non-duplication
- X Reference
- X Public Notice & Comment
- X Public Hearing

REQUIREMENTS FOR STATE IMPLEMENTATION PLAN SUBMISSION (SIP):

- X Public Notice & Comment
- X Availability of Document
- X Notice to Specified Entities (State, Air Districts, USEPA, Other States)
- X Public Hearing
- X Legal Authority to adopt and implement the document.
- X Applicable State laws and regulations were followed.

ELEMENTS OF A FEDERAL SUBMISSION:

- N/A Elements as set forth in applicable Federal law or regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS (CEQA):

- N/A Ministerial Action
- X Exemption
- N/A Negative Declaration
- N/A Environmental Impact Report
- X Appropriate findings, if necessary.
- X Public Notice & Comment

SUPPLEMENTAL ENVIRONMENTAL ANALYSIS (RULES & REGULATIONS ONLY):

- X Environmental impacts of compliance.
- N/A Mitigation of impacts.
- N/A Alternative methods of compliance.

OTHER:

- N/A Written analysis of existing air pollution control requirements
- X Economic Analysis
- X Public Review

V. DISCUSSION OF LEGAL REQUIREMENTS

A. REQUIRED ELEMENTS/FINDINGS

This section discusses the State of California statutory requirements that apply to the proposed amendments to Rule 219. These are actions that need to be performed and/or information that must be provided in order to amend the rule in a procedurally correct manner.

1. State Findings Required for Adoption of Rules & Regulations:

Before adopting, amending, or repealing a rule or regulation, the District Governing Board is required to make findings of necessity, authority, clarity, consistency, non-duplication, and reference based upon relevant information presented at the hearing. The information below is provided to assist the Board in making these findings.

a. Necessity:

The proposed amendments to Rule 219 are necessary to implement the provisions of Senate Bill 700 of 2003 (H&S Code §§40724-40724.7). This amendment will also add a provision to include negligibly emitting fuel cells as specific equipment not requiring a permit in a manner consistent with neighboring air district rules.

b. Authority:

The District has the authority pursuant to H&S Code §40702 to adopt, amend or repeal rules and regulations.

c. Clarity:

The proposed amendments to Rule 219 are clear in that they are written so that the persons subject to the Rule can easily understand the meaning.

d. Consistency:

The proposed amendments to Rule 219 are in harmony with, and not in conflict with or contradictory to any state law or regulation, federal law or regulation, or court decisions. They do not interfere with any federal applicable requirement concerning attainment or Reasonable Further Progress (RFP) pursuant to the Federal Clean Air Act (FCAA).

e. Non-duplication:

The proposed amendments to Rule 219 do not impose the same requirements as any existing state or federal law or regulation because state law requires the adoption and implementation of these provisions.

f. Reference:

The District has the authority pursuant to H&S Code §40702 to adopt, amend or repeal rules and regulations.

g. Public Notice & Comment, Public Hearing:

Notice for the public hearing for the proposed amendments to Rule 219 will be published 05/28/2010. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, if any, and District responses.

2. Federal Elements (SIP Submittals, Other Federal Submittals).

Submittals to USEPA are required to include various elements depending upon the type of document submitted and the underlying Federal law that requires the submittal. The information below indicates which elements are required for the proposed amendments to Rule 219 and how they were satisfied.

a. Satisfaction of Underlying Federal Requirements:

The amendments to Rule 219 are subject to all the requirements for a SIP submittal because Rule 219 is included in the MDAQMD SIP. The criteria for determining completeness of SIP submissions are set forth in 40 CFR Part 51, Appendix V, 2.0. In addition, FCAA §110(l) (42 U.S.C. 7410(l)) requires that any rule action which might possibly be construed as a relaxation of a requirement provide a demonstration that the change not interfere with any FCAA requirements concerning attainment or RFP. Please see section (VI)(E) below for the applicable demonstration.

b. Public Notice and Comment:

Notice for the public hearing for the proposed amendments to Rule 219 will be published 05/28/2010. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, if any, and District responses.

c. Availability of Document:

Copies of the proposed amendments to Rule 219 and the accompanying draft staff report will be made available to the public on 05/13/2010. The proposed amendments were also reviewed by the Technical Advisory Committee, a committee consisting of a variety of regulated industry and local governmental entities, on 04/19/2010.

d. Notice to Specified Entities:

Copies of the proposed amendments to Rule 219 and the accompanying draft staff report will be sent to all affected agencies. The proposed amendments were sent to CARB and USEPA on 05/13/2010.

e. Public Hearing:

A public hearing to consider the proposed amendments to Rule 219 has been set for 06/28/2010.

f. Legal Authority to Adopt and Implement:

The District has the authority pursuant to H&S Code §40702 to adopt, amend, or repeal rules and regulations and to do such acts as may be necessary or proper to execute the duties imposed upon the District.

g. Applicable State Laws and Regulations Were Followed:

Public notice and hearing procedures pursuant to H&S Code §§40725-40728 have been followed. See Section (V)(A)(1) above for compliance with state findings required pursuant to H&S Code §40727. See Section (V)(B) below for compliance with the required analysis of existing requirements pursuant to H&S Code §40727.2. See Section (V)(C) for compliance with economic analysis requirements pursuant to H&S Code §40920.6. See Section (V)(D) below for compliance with provisions of the California Environmental Quality Act (CEQA).

B. WRITTEN ANALYSIS OF EXISTING REQUIREMENTS

H&S Code §40727.2 requires air districts to prepare a written analysis of all existing federal air pollution control requirements that apply to the same equipment or source type as the rule proposed for modification by the district.

The existing FCAA requires districts to adopt local programs for issuing operating permits to major stationary sources of air pollutants. The existing act defines a stationary source as any building, structure, facility, or installation that emits or may emit any air pollutant. The FCAA (42 U.S.C. Sec. 7401 et seq.) prohibits the state from adopting emission standards or limitations less stringent than those established under the federal act, including limitations on emissions from agricultural sources. California responded by adopting SB 700 in 2003 provisions requiring air districts to adopt rules in part to regulate pollution from larger agricultural sources in the same manner as other non-agricultural sources with similar equipment. The proposed amendments to Rule 219 – *Equipment Not Requiring a Permit* will implement portions of the provisions of SB 700 by requiring all agricultural sources that meet certain thresholds of animals or regulated pollutants to obtain permits for emitting equipment in the same manner and to the same extent as other regulated sources.

C. ECONOMIC ANALYSIS

1. General

As an administrative rule being amended in support of the entire implementation of SB 700, the proposed amendments to Rule 219 is not expected to have an adverse economic impact. Certain equipment at large agricultural sources will be required to obtain and maintain permits. The economic impact of this rule on any particular facility will be determined by the number and type of equipment subject to permit and the attendant permit fees under Rule 301. The proposed amendments to Rule 219 will not in and of itself require additional equipment or expenditures other than that required to obtain the permit. The economic impact will therefore be identical to that contemplated by the legislatures adoption of SB 700 itself.

The economic impacts for the remaining rules included in the implementation of SB 700 will be evaluated independently in the specific staff reports of Rules 403.3 – *Fugitive Dust Control for Off-site Agricultural Sources*, 403.4 – *Fugitive Dust Control for On-site Agricultural Sources*, 1160.1 – *Internal Combustion Engines in Agricultural Operations*, and 1186 – *Confined Animal Facilities*.

This amendment will also add a provision to include negligibly emitting fuel cells as specific equipment not requiring a permit. There will be no adverse economic impact as a result of not requiring a permit for fuel cells.

2. Incremental Cost Effectiveness

Pursuant to H&S Code §40920.6, incremental cost effectiveness calculations are required for rules and regulations which are adopted or amended to meet the California Clean Air Act requirements for Best Available Retrofit Control Technology (BARCT) or “all feasible measures” to control volatile compounds, oxides of nitrogen or oxides of sulfur. This requirement does not apply to the

proposed amendments to Rule 219 (an administrative rule) since it does not require BARCT or “all feasible measures.”

D. ENVIRONMENTAL ANALYSIS (CEQA)

Through the process described below the appropriate CEQA process for the proposed amendments to Rule 219 was determined.

1. The proposed amendments to Rule 219 meet the CEQA definition of “project”. They are not “ministerial” actions.
2. The proposed amendments to Rule 219 are exempt from CEQA review because they will not create any adverse impacts on the environment. The proposed amendments to Rule 219 – *Equipment Not Requiring a Permit* will implement portions of the provisions of SB 700 by requiring all agricultural sources that meet certain thresholds of animals or regulated pollutants to obtain permits like other regulated sources. The entire implementation of SB 700 as made possible by the amendment of Rule 219 to require permits from larger agricultural sources will allow the reduction of air emissions from agricultural sources by providing an inspection and enforcement mechanism for the other proposed rules.

Former H&S Code §42310(e) exempted “any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals” from the obligation to obtain a permit. After USEPA found that the agricultural exemption in §42310(e) conflicted with the FCAA permitting requirements, 67 FR 35990 (05/22/02); 68 FR 37746 (06/23/03), the California Legislature passed Senate Bill 700 (“SB 700”) which took effect 01/01/04, and removed the agricultural exemption from H&S Code §42310(e).

In the MDAQMD Federal 8-Hour Ozone Attainment Plan (Western Mojave Desert Non-Attainment Area) adopted 06/09/08, the District accounted for 0.72 tons per ozone seasonal day from farming operations. Even with completely uncontrolled agricultural sources, the District was able to show attainment. Now, the District is proposing to actively regulate agricultural facilities that emit over 50 tons per year of any regulated air pollutant other than NO_x or VOC (over 12.5 tons per year), any single HAP (over 5 tons per year), any combined HAP (over 12.5 tons per year), or one-half the amount of any such lesser quantity of a single HAP that USEPA should establish by rule. The District should be able to quantify the actual reductions from this combined rule action. Any control of this source category is more than what was previously controlled. Because there is not potential that the adoption might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies. Copies of the documents relating to CEQA can be found in Appendix “D”.

E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS

1. Potential Environmental Impacts

The proposed amendments to Rule 219 – *Equipment Not Requiring a Permit* will implement portions of the provisions of SB 700 by requiring all agricultural sources that meet certain thresholds of animals or regulated pollutants to obtain permits like other regulated sources. The entire implementation of SB 700 as allowed by the amendment of Rule 219 will reduce air emissions from agricultural sources. Pursuant to former H&S Code §42310(e), the District did not permit agricultural sources. In the MDAQMD Federal 8-Hour Ozone Attainment Plan (Western Mojave Desert Non-Attainment Area) adopted June 9, 2008, the District accounted for 0.72 tons per ozone seasonal day from farming operations. Even with completely uncontrolled agricultural sources, the District was able to show attainment. Now, the District is proposing to actively regulate agricultural facilities that emit over 50 tons per year of any regulated air pollutant other than NO_x or VOC (over 12.5 tons per year), any single HAP (over 5 tons per year), any combined HAP (over 12.5 tons per year), or one-half the amount of any such lesser quantity of a single HAP that USEPA should establish by rule. The District should be able to quantify actual reductions from this combined rule action. Any control of this source category is more than what was previously controlled.

2. Mitigation of Impacts

N/A

3. Alternative Methods of Compliance

N/A

F. PUBLIC REVIEW

See Staff Report Section (V)(A)(1)(g) and (2)(b), as well as Appendix “B”

VI. TECHNICAL DISCUSSION

A. SOURCE DESCRIPTION

Rule 219 – Equipment Not Requiring a Permit describes equipment that does not require a permit pursuant to District Rules 201 and 203; and describes equipment which does not need to be listed on a Federal Operating Permit (FOP) issued pursuant to Regulation XII. The proposed amendments to Rule 219 adds thresholds criteria for exclusion from both state and federal operating permits for agricultural facilities as determined by a threshold number of animals and/or emissions. This proposed amendment will also add a provision to include negligibly emitting fuel cells as specific equipment not requiring a permit.

B. EMISSIONS

As an administrative action, this rule amendment would not have any direct impact on the issuance of air contaminants.

C. CONTROL REQUIREMENTS

The proposed amendments to Rule 219 does not change control requirements. They do not impose any new or additional requirements other than codifying state law by implementing the provisions of SB 700, and adding a provision to include negligibly emitting fuel cells as specific equipment not requiring a permit.

D. PROPOSED RULE SUMMARY

This section gives a brief overview of the proposed amendments to Rule 219.

Section (B)(3) has been added to specify which agricultural facilities shall or shall not require a permit.

Section (C)(1) definition of an agricultural facility has been added.

Section (D)(2) has been added to specify the threshold criteria for agricultural facilities. Subsection (a) specifies the number of animals at a combined animal facility required for exclusion. Subsection (b) specifies the specific emissions from an agricultural facility required for exclusion.

Section (E)(2)(e) has been added to include fuel cells which use phosphoric acid, molten carbonate, proton exchange membrane or solid oxide technologies as equipment which does not require a permit.

E. 110(l) ANALYSIS

Former H&S Code §42310(e) exempted “any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals” from the obligation to obtain a permit. The MDAQMD has not previously permitted or regulated agricultural sources pursuant to this H&S Code exemption. Agriculture was accounted for in the inventory in the unregulated state.¹ Even without using agricultural reductions from uncontrolled agricultural sources, the District was able to show attainment and RFP.

After USEPA found that the agricultural equipment exemption in §42310(e) conflicted with the FCAA permitting requirements, 67 FR 35990 (05/22/02); 68 FR 37746 (06/23/03), the California Legislature passed Senate Bill 700 (“SB 700”) which took effect 01/01/04, and removed the agricultural exemption from H&S Code §42310(e). Agriculture was still accounted for in the inventory in the unregulated state. Again,

¹ See: *Post 1996 Attainment Demonstration and Reasonable Further Progress Plan* as adopted 10/26/1994

without using agricultural reductions from uncontrolled agricultural sources, the District was able to show attainment and RFP².

Now, the District is proposing to actively regulate agricultural facilities that emit over 50 tons per year of any regulated air pollutant other than NO_x or VOC (over 12.5 tons per year), any single HAP (over 5 tons per year), any combined HAP (over 12.5 tons per year), or one-half the amount of any such lesser quantity of a single HAP that USEPA should establish by rule. The MDAQMD is proposing to adopt Rules 403.3 – *Fugitive Dust Control for Off-site Agricultural Sources*, 403.4 – *Fugitive Dust Control for On-site Agricultural Sources*, 1160.1 – *Internal Combustion Engines in Agricultural Operations*, and 1186 – *Confined Animal Facilities* to fully implement the requirements of SB 700.

Implementation of the proposed rules will establish RACT for existing agricultural sources subject to the thresholds established by SB 700, will impose RACT on certain equipment at large agricultural sources equivalent to RACT on the same or similar equipment at non-agricultural sources, and require BACT for certain new sources subject to New Source Review. These rules including proposed Rule 219 will result in emissions reductions, which the District will not need to use to show attainment or RFP. Rule 219 provides exemptions for thresholds that are still not regulated under state law. Any control of this source category is greater than what was previously controlled.

F. SIP HISTORY

1. SIP History.

a. SIP in the San Bernardino County Portion of MDAQMD

Rule 219 was originally adopted on 01/09/76 by the Southern California Air Pollution Control District (So.Cal.APCD) which was created by a Joint Powers Agreement (JPA) between Los Angeles, Orange, Riverside and San Bernardino Counties to replace the previous county-wide air pollution control districts for those counties. The rule was subsequently amended on 10/08/76. On 02/01/77, pursuant to statute (Cal. Stats. 1976, Ch 324 p. 815) the South Coast Air Quality Management District (SCAQMD) was created with an initial jurisdiction that only included areas of Los Angeles, Orange, Riverside and San Bernardino Counties contained within the South Coast Air Basin (SCAB). Outlying areas remained under the So. Cal. APCD. Also on 02/01/77 the California Air Resources Board (CARB) issued Executive Order G-73 (1977) which adopted a “rule book” for those non-SCAB areas of Los Angeles, Riverside and San Bernardino Counties. CARB submitted the G-73 rulebook on behalf of the “county” districts and these rule books included Rule 219. Rule 219 was

² See: *MDAQMD 2004 Ozone Attainment Plan (State & Federal)* as adopted 4/26/2004; *Federal 8-Hour Ozone Attainment Plan (Western Mojave Desert Non-Attainment Area)* as adopted 6/9/2008.

approved into the SIP on 11/09/78 (43 FR 52237, 40 CFR 52.220(c)(31)(vi)(C), 40 CFR 52.220(c)(32)(iv)(C), 40 CFR 52.220(c)(39)(ii)(B)).

By its terms Executive Order G-73 (1977) was only effective until the non-SCAB areas took other action. On 02/22/77 the JPA forming the So.Cal.APCD was formally dissolved. By the terms of the JPA upon dissolution each county would regain its county air pollution control district with a jurisdiction of the non-SCAB areas of the county and the applicable rules being the So.Cal.APCD's rules in effect upon the date of dissolution. Thus, as of 02/22/77 the version of Rule 219 for the San Bernardino County APCD (SBCAPCD) reverted from the G-73 (1977) CARB version back to the original So.Cal.APCD 10/08/76 version.

On 07/25/77 the SBCAPCD readopted its rulebook including Rule 219. Rule 219 was subsequently amended 11/25/91 and submitted on 01/28/92 for inclusion into the SIP. USEPA took no action on this submission.

On 07/01/93 the MDAQMD was formed pursuant to statute. Pursuant to statute it also retained all the rules and regulations of the SBCAPCD until such time as the Governing Board of the MDAQMD wished to adopt, amend or rescind such rules. The MDAQMD Governing Board, at its very first meeting, reaffirmed all the rules and regulations of the SBCAPCD. Rule 219 was subsequently amended by the MDAQMD on 12/21/94 and submitted for inclusion into the SIP on 01/24/95, amended 10/23/00 and submitted for inclusion into the SIP on 10/30/01, and submitted as amended 04/25/05 for inclusion in the SIP. USEPA has not taken action on these submissions at this time. Since SIP revisions in California are adopted by USEPA as effective in areas which happen to be defined by both air basin designations and the jurisdictional boundaries of local air districts within those air basins, the MDAQMD "inherited" the SBCAPCD SIP which was in effect for what is now called the San Bernardino County Portion of MDAB. Therefore, the 07/25/77 version of Rule 219 is the version included in the SIP since USEPA has taken no action on the subsequent submissions.

b. SIP in the Riverside County (Blythe/Palo Verde Valley) Portion of the MDAQMD

One of the provisions of the legislations which created the MDAQMD allowed areas contiguous to the MDAQMD boundaries and within the same air basin to leave their current air

district and become a part of the MDAQMD. On July 1, 1994 the area commonly known as the Palo Verde Valley in Riverside County, including the City of Blythe, left SCAQMD and joined the MDAQMD. Since USEPA adopts SIP revisions in California as effective within the jurisdictional boundaries of local air districts, when the local boundaries change the SIP as approved by USEPA for that area up to the date of the change remains as the SIP in that particular area. Upon annexation of the Blythe/Palo Verde Valley the MDAQMD acquired the SIP prior to July 1, 1994 that was effective in the Blythe/Palo Verde Valley. Therefore, the SIP history for the Blythe/Palo Verde Valley Portion of the MDAQMD is based upon the rules adopted and approved for that portion of Riverside County by SCAQMD.

The So.Cal.APCD version of Rule 219 was originally adopted 01/09/76 and amended 01/08/76 and was also effective in Riverside County. Thereafter, the SIP history for Rule 219 in Riverside County remains the same as that in the non SCAB areas of San Bernardino County until early 1978. As of 01/01/78 the non-SCAB portions of Los Angeles, Riverside and San Bernardino Counties were allowed to “opt in” to SCAQMD (Cal Stats 1977 Ch 1195 pg. 4005). Both Los Angeles and Riverside counties did so while San Bernardino County did not. SCAQMD amended Rule 219 on 02/02/79 and submitted it as a SIP revision for its entire jurisdiction including the Blythe/Palo Verde Valley area. USEPA apparently disapproved the submission. SCAQMD subsequently amended Rule 219 on 10/05/79 and again on 09/04/81. USEPA approved the 09/04/81 version of SCAQMD Rule 219 on 07/06/82 at 47 FR 29231. SCAQMD subsequently amended Rule 219 06/03/88, and 09/11/92 with no presumed action by USEPA. On July 1, 1994 the Blythe/Palo Verde Valley area became part of the MDAQMD. At that time the SIP version of Rule 219 appeared to be the 09/04/81 version.

2. SIP Analysis.

The District will request CARB to submit the proposed amendments to Rule 219 to replace the SIP versions in effect in the San Bernardino County portion of the MDAB and the Blythe/Palo Verde Valley portion of Riverside County. This submission is necessary to implement the provisions of Senate Bill 700 of 2003 (H&S Code §§40724-40724.7). This amendment will also add a provision to include negligibly emitting fuel cells as specific equipment not requiring a permit in a manner consistent with neighboring air district rules.

Since there are previously existing SIP rules for this category the District will request that they be superseded. In order to replace existing SIP rules the District

is required to show that the proposed amendments are not less stringent than the provisions currently in the SIP.

The proposed amendments to Rule 219 – *Equipment Not Requiring a Permit* will implement portions of the provisions of SB 700 by requiring all agricultural sources that meet certain thresholds of animals or regulated pollutants to obtain permits like other regulated sources. The entire implementation of SB 700 as allowed by the amendment of rule 219 will reduce air emissions from agricultural sources. Pursuant to former H&S Code §42310(e), the District did not permit agricultural sources. Providing a new exemption in the SIP, regardless of H&S requirements, could potentially be determined as a “back-off” pursuant to FCAA 110(l).

Of those SIP rule in effect, permits may potentially have been issued pursuant to Rule 431 – *Sulfur Content of Fuels*, Rule 432 – *Gasoline Specifications*, 442 – *Usage of Solvents*, Rule 462 – *Organic Liquid Loading* and Rule 1160 – *Internal Combustion Engines*. In the MDAQMD Federal 8-Hour Ozone Attainment Plan (Western Mojave Desert Non-Attainment Area) adopted June 9, 2008, the District accounted for 0.72 tons per ozone seasonal day from farming operations. Even with uncontrolled agricultural sources, the District was able to show attainment.

Now, the District is proposing to actively regulate agricultural facilities that emit over 50 tons per year of any regulated air pollutant other than NO_x (over 12.5 tons per year), any single HAP (over 5 tons per year), any combined HAP (over 12.5 tons per year), or one-half the amount of any such lesser quantity of a single HAP that USEPA should establish by rule. The District should be able to quantify actual reductions from this combined rule action. Any control of this source is more than what was previously controlled and should be considered more stringent than current SIP requirements.

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Appendix “A”

Rule 219 – *Equipment Not Requiring a Permit* Iterated Version

The iterated version is provided so that the changes to an existing rule may be easily found. The manner of differentiating text is as follows:

1. Underlined text identifies new or revised language.
2. ~~Lined out text~~ identifies language which is being deleted.
3. Normal text identifies the current language of the rule which will remain unchanged by the adoption of the proposed amendments.
4. *[Bracketed italicized text]* is explanatory material that is not part of the proposed language. It is removed once the proposed amendments are adopted.

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RULE 219

Equipment Not Requiring a Permit

(A) Purpose.

- (1) The purpose of this Rule is as follows:
 - (a) To describe equipment that does not require a permit pursuant to District Rules 201 and 203; and
 - (b) To describe equipment which does not need to be listed on a Federal Operating Permit (FOP) issued pursuant to Regulation XII.

(B) General Provisions.

- (1) The Air Pollution Control Officer (APCO) shall not require a owner/operator to obtain a permit for particular equipment pursuant to District Rules 201 and 203 if:
 - (a) Such equipment is contained in the list of particular equipment in subpart (E) below.
- (2) The APCO shall not require an owner/operator to list particular equipment on an application for a FOP or require the listing of such equipment upon an FOP issued pursuant to Regulation XII if:
 - (a) Such equipment emits Air Contaminants in an amount less than the threshold levels listed in subpart (D)(1); and
 - (b) Such equipment is contained in the list of particular equipment in subpart (E); and
 - (c) Such equipment is not subject to an Applicable Requirement, as defined in District Rule 1201(G), and information regarding such equipments is not required to determine the applicability of an Applicable Requirement; and
 - (d) Such equipment is not included in subpart (E) solely due to size or production rate.
- (3) The APCO shall not require an owner/operator of an Agricultural Facility to obtain a permit for equipment located at such a Facility which would otherwise be subject to permit pursuant to District Rules 201 and 203 if:
 - (a) The Agricultural Facility emits nonattainment air contaminants in an amount less than the threshold levels listed in subpart (D)(2)(ab); and
[Derived from H&S Code §§42301.16(c) and 40724.6(c)]

- (b) The Agricultural Facility is not a confined animal facility (as defined in Health & Safety Code §30911.5(a)(1)) having a number of animals over the amounts listed in subpart (D)(2)(ba); and. [Derived from H&S Code §30911.5(a)(1) and SJUAPCD Rule 4570]
- (c) The Agricultural Facility is not otherwise a Major Facility for purposes of either Title I or Title V of the Federal Clean Air Act; and [Derived from H&S Code §30911.5(a)(3)]
- (d) The particular equipment potentially exempt under this subsection is not otherwise subject to District Rules & Regulations pursuant to Division 26 of the California Health & Safety Code and regulations promulgated thereunder. [Derived from H&S Code 30911.5(a)(3)]

(34) Nothing in this rule shall be interpreted to exempt the emissions from such equipment from being considered in any emissions calculations required pursuant to Regulation XII and Regulation XIII unless such emissions are specifically exempted by those Regulations.

(45) The burden of proof regarding the applicability of this rule to particular equipment shall be on the owner/operator of such equipment.

(C) Definitions.

(1) “Agricultural Facility” – Any equipment or group of equipment potentially subject to District Rules 201 and 203 used in an Agricultural Operation (as defined in District Rule 114(B)(1)) and which are located on contiguous property under common ownership or control [Derived from H&S Code 30911.5(a)]

(12) "Volatile Organic Compound (VOC)" - Any compound of carbon, including ethane but excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions excluding those compounds listed in 40 CFR 51.100(s)(1).

(D) Threshold Criteria ~~for Exclusion from Federal Operating Permit.~~

(1) Threshold Criteria for Exclusion from Federal Operating Permit

(a) To be eligible for exclusion from an FOP pursuant to section (B)(2), any equipment listed under this rule shall not emit Air Contaminants in an amount greater than:

(ia) Ten percent (10%) of the applicable threshold for determination of a Major Facility pursuant to Rule 1201(S) or two (2) tons per year of any Regulated Air Pollutant as defined in Rule 1201(X), whichever amount is less; or

- (bii) Any de minimis level for a Hazardous Air Pollutant (as defined in District Rule 1201(R)), promulgated pursuant to 42 U.S.C. §7412 (Federal Clean Air Act §112), any significance level defined in 40 CFR 52.21(b)(23)(i), or 0.5 tons per year of such Hazardous Air Pollutant, whichever is less.

(2) Threshold Criteria for Agricultural Facilities

- (a) To be eligible for exclusion from permitting requirements pursuant to section (B)(3)(b) a confined animal facility must have, at all times, less than the following numbers of animals: *[Derived from CCR Title 17, Division 1, Chapter 1, Subchapter 2.7, §86500(a)]*

- (i) 1,000 milking cows at a Dairy milk-producing dairy cows;
- (ii) 3,500 beef cattle at a Beef Feedlot;
- (iii) 7,500 calves, heifers or other cattle; at any other cattle facility
- (iv) 650,000 head of Chickens other than laying hens;
- (v) 650,000 laying hens;
- (vi) 650,000 head of Ducks;
- (vii) 100,000 head of Turkeys;
- (viii) 3,000 head of Swine;
- (viii) 3,000 head of 2,500 Horses;
- (ix) 15,000 head of sheep, lambs, or goats; or any combination of sheep and goats
- (xi) 30,000 head of any livestock not listed above rabbits or other animals.

- (b) To be eligible for exclusion from permitting requirements pursuant to section (B)(3)(c), an agricultural facility must emit less than any of the following:

- (i) Fifty (50) tons per year of any Regulated Air Pollutant (as defined in District Rule 1301(AAA)) other than those listed in subsection (ii) and (iii) below;
- (ii) 12.5 tons per year of either For Nitrogen Oxides (NO_x) or VOC:
 - 1. 12.5 tons per year for any agricultural facilities located within a federal ozone nonattainment area; and
 - 2. Fifty (50) tons per year for any agricultural facilities located outside a federal ozone nonattainment area; or
- (iii) Five (5) tons per year of any single Hazardous Air Pollutant (as defined in District Rule 1320(C)(9)), 12.5 tons per year of any combination of Hazardous Air Pollutants or one half (½) the amount of any such lesser quantity of a single Hazardous Air Pollutant that USEPA should establish by rule.

[Derived from H&S Code §§42301.16(c) and 40724.6(c)]

(E) Specific Equipment Not Requiring a Permit.

(1) Vehicles and Transportation Equipment.

- (a) Motor vehicles as defined by §415 of the Vehicle Code of the State of California but not including any article, machine, equipment, or other contrivance mounted on such vehicle, that would otherwise require a permit under the provisions of these rules and regulations.
- (b) Equipment mounted upon vehicles that are used exclusively to transport materials on streets or highways including, but not limited to, cement trucks, and gasoline tanker trucks (does not include asphalt or coal tar pitch roofing kettles).
- (c) Locomotives, airplanes, and watercraft used to transport passengers or freight.

(2) Combustion and Heat Transfer Equipment.

- (a) Internal Combustion Engines and Gas Turbines - Piston type internal combustion engines with a manufacture's maximum continuous rating of less than 50 brake horsepower, or gas turbine engines with a maximum heat input rate of less than 3,000,000 Btu (756,300 kilogram calories) per hour at International Standardization Organization (ISO) Standard Day Conditions. The ratings of all engines or turbines used in the same process will be accumulated to determine whether this exemption applies.
- (b) General Combustion Source - Any combustion equipment that has a maximum heat input rate of less than 2,000,000 Btu (504,000 kilogram calories) per hour (gross) and is equipped to be fired exclusively with Public Utilities Commission regulated natural gas, liquefied petroleum gas or any combination thereof. The ratings of all combustion equipment used in the same process will be accumulated to determine whether this exemption applies.
- (c) Internal combustion engines used exclusively for training at educational institutions.
- (d) Portable internal combustion engines, including any turbines qualified as military tactical support equipment under Health and Safety Code §41754, registered pursuant to the California Statewide Portable Engine Registration Program.
- (e) Fuel cells which use phosphoric acid, molten carbonate, proton exchange membrane or solid oxide technologies. [Derived from South Coast AQMD Rule 219 (06/01/07), to handle negligibly emitting fuel cells in a manner similar to neighboring air districts.]

- (3) Structures and Equipment - General.
- (a) Structural changes which cannot change the quality, nature or quantity of air contaminant emissions.
 - (b) Repairs or maintenance not involving structural changes to any equipment for which a permit has been granted.
 - (c) Equipment utilized exclusively in connection with any structure, which structure is designed for and used exclusively as a dwelling for not more than four families.
 - (d) Laboratory equipment used exclusively for chemical and physical analysis and bench scale or laboratory test equipment.
 - (e) Vacuum-producing devices used in laboratory operations or in connection with other equipment which is exempt by this rule.
 - (f) Vacuum-cleaning systems used exclusively for industrial, commercial or residential housekeeping purposes.
 - (g) Natural-draft hoods, natural-draft stacks, or natural-draft ventilators.
 - (h) Bench scale experiments or research operations and equipment used exclusively for investigation, experimentation or research to advance the state of air pollution control knowledge or to improve techniques. Prior approval, which may include limitation of time, shall be obtained from the Air Pollution Control Officer.
- (4) General Utility Equipment.
- (a) Comfort air conditioning or ventilating systems which are not designed or used to remove air contaminants generated by or released from specific units of equipment.
 - (b) Refrigeration units except those used as or in conjunction with air pollution control equipment.
 - (c) Water cooling towers and water cooling ponds that have a circulation rate of less than 10,000 gallons/minute (37,800 liters/minute) and which are not used for: evaporative cooling of process water; or aqueous solutions used for evaporative cooling of barometric jets or barometric condensers; and into which no chromium compounds are added.
 - (d) Equipment used exclusively for steam cleaning.
 - (e) Equipment used exclusively for space heating other than boilers.

- (5) Glass, Ceramic, Metallurgical Processing & Fabrication Equipment.
- (a) Crucible-type or pot-type furnaces with a brimful capacity of less than 452 cubic inches (7400 cubic centimeters) of any molten metal.
 - (b) Crucible furnaces, pot furnaces, or induction furnaces with a capacity of less than 992 pounds (450 kilograms) each, in which no sweating or distilling is conducted, provided such equipment is exempt pursuant to subsection (E)(2)(b), and from which only the following metals are poured or in which only the following metals are held in a molten state (provided the materials do not contain alloying elements of arsenic, beryllium, cadmium, chromium and/or lead). Percent by weight of such metals shall be determined by the referenced test method, or an equivalent method approved by the APCO.
 - (i) Aluminum or any alloy containing over 50 percent aluminum by weight. ASTM E 34-88
 - (ii) Magnesium or any alloy containing over 50 percent magnesium by weight. ASTM E 35-88
 - (iii) Lead or any alloy containing over 50 percent lead by weight. ASTM E 46-87
 - (iv) Tin or any alloy containing over 50 percent tin by weight. ASTM E 46-87
 - (v) Zinc or any alloy containing over 50 percent zinc by weight. ASTM E 536-84
 - (vi) Copper. ASTM E 34-88
 - (vii) Precious metals (gold, silver, palladium, and platinum). ASTM E 1335-90
 - (c) Molds used for the casting of metals.
 - (d) Equipment used exclusively for inspection of metal products and control equipment venting exclusively such equipment.
 - (e) Brazing, hand-held soldering, and hot air solder leveling, (but not hot-oil or vapor phase solder levelings), and control equipment venting exclusively such equipment. Welding or oxygen gaseous fuel-cutting equipment and control equipment venting such equipment. (Does not include plasma arc-cutting equipment with an electrical power input rating greater than 30 KVA and control equipment venting such equipment.)
 - (f) Equipment used for washing products fabricated from metal or glass provided that no organic washing agents are used in the process.
 - (g) Foundry sand mold forming equipment to which no heat and no VOC or chemical desiccants are applied, and control equipment venting exclusively such equipment.

- (h) Equipment used exclusively for forging, pressing, rolling, or drawing of metals or for heating metals exclusively with electricity prior to forging, pressing, rolling, or drawing.
- (i) Equipment used exclusively for heat treating glass or metals (provided no organic compounds are present) or used exclusively for case hardening, carburizing, cyaniding, nitriding, carbonitriding, siliconizing, or diffusion treating of metal objects, provided any combustion equipment involved is exempt pursuant to subparagraph (E)(2)(b).
- (j) Ladles used in pouring molten metals.
- (k) Tumblers used for the cleaning or deburring of metal products without abrasive blasting.
- (l) Die casting machines, except those used for copper base alloys, those with an integral furnace having a brimful capacity of more than 992 pounds (450 kg), or those using a furnace not exempt pursuant to subparagraph (E)(2)(b).
- (m) Wax burnout kilns where the total internal volume is less than 7.0 cubic feet (0.2 cubic meter) or kilns used exclusively for firing ceramic ware, provided such kilns are exempt pursuant to subparagraph (E)(2)(b).
- (n) Shell core and shell-mold manufacturing machines.
- (6) Abrasive Blasting Equipment.
 - (a) Blast cleaning cabinets in which a suspension of abrasive in water is used and control equipment venting exclusively such equipment.
 - (b) Abrasive blast cabinet dust-filter combination units where the total internal volume of the blast section is less than 53 cubic feet (1.5 cubic meters).
 - (c) Enclosed equipment used exclusively for shot blast removal of flashing from rubber and plastics at sub-zero temperatures and control equipment venting exclusively such equipment.
 - (d) Shot peening operations on non-ferrous materials, provided no surface material is removed, and control equipment venting exclusively such equipment.
- (7) Machining Equipment.
 - (a) Equipment used exclusively for buffing (except automatic and semi-automatic tire buffers), polishing, carving, mechanical, cutting, drilling, machining, pressing, routing, sanding, surface grinding or turning of

ceramic art work, ceramic precision parts, leather, metals, plastics, rubber, fiberboard, masonry, carbon or graphite, and control equipment exclusively venting such equipment.

- (b) Equipment used exclusively for carving, cutting, drilling, planing, routing, sanding, sawing, shredding or turning of wood or the extruding, pressing or storage of wood chips, sawdust, wood shavings, and control equipment exclusively venting such equipment.
- (c) Equipment used exclusively to mill or grind coatings and molding compounds where all materials charged are in paste form.

(8) Printing and Reproduction Equipment.

- (a) Printing and related coating or laminating equipment, without dryers, using less than two gallons of combined graphic arts material per day. Dryers include, but are not limited to, UV lights and infrared lamps. Graphic arts materials are any inks, coatings, adhesives, fountain solutions, thinners, retarders, or cleaning solutions used in printing or related coating or laminating processes. (Does not include equipment associated with wood flat stock coating operations).
- (b) Photographic process equipment by which an image is reproduced upon material sensitized by radiant energy and control equipment venting exclusively such equipment.
- (c) Platen presses used in laminating.
- (d) Silk screening where the product is manually positioned.

(9) Food Processing and Preparation Equipment.

- (a) Smokehouses for preparing food in which the maximum horizontal inside cross-sectional area does not exceed 21.5 square feet (2 square meters).
- (b) Confection cookers where products are edible and intended for human consumption and control equipment venting exclusively such equipment.
- (c) Equipment used exclusively to grind, blend, or package tea, cocoa, spices or roasted coffee, and control equipment venting exclusively such equipment.
- (e) Equipment used in eating establishments for the purpose of preparing food for human consumption.
- (f) Ovens, mixers, scales, and blenders used in bakeries where products are edible and intended for human consumption and control equipment

venting exclusively such equipment whose total production is less than 1,000 pounds (454 kilograms) of product per operating day.

- (g) Smokehouses using exclusively liquid smoke and which are completely enclosed with no vents to any control device or the atmosphere.
- (h) Barbecue equipment which is not used for commercial purposes.
- (i) Barbecue equipment which is used for commercial purposes within the district but for not more than a combined total of fourteen (14) days in any calendar year.

(10) Plastics and Rubber Processing Equipment.

- (a) Any equipment/process listed below that has uncontrolled emissions of VOCs not exceeding five pounds (2.27 kilograms) in any one day.
 - (i) Presses used for curing rubber products and plastic products where no blowing agent is present.
 - (ii) Ovens used exclusively for the forming of plastics, which are concurrently being vacuum-held to a mold, and where no foam forming or expanding process is involved, provided such equipment is exempt pursuant to subparagraph (E)(2)(b). Equipment used exclusively for softening or annealing plastics, provided such equipment is exempt pursuant to subparagraph (E)(2)(b).
- (b) Presses used exclusively for extruding rubber products or plastics where no plasticizer is present, or for pelletizing polystyrene foam scrap, or to extrude or pelletize acrylics (except those used to pelletize polyvinyl chloride, polystyrene, and their copolymers).
- (c) Equipment used for compression molding or injection molding of plastics where no blowing agent is present and control equipment venting exclusively such equipment.
- (d) Mixers, roll mills, and colanders for rubber or plastics where no material in powder form is added and no organic solvents, diluents, or thinners are used.
- (e) Ovens used exclusively for the curing of vinyl plastisols by the closed-mold curing process provided such ovens are exempt pursuant to subparagraph (E)(2)(b).
- (f) Equipment used exclusively for conveying and storing plastic pellets.

(11) Mixing and Blending Equipment.

- (a) Batch mixers which have a brimful capacity of 55 gallons or 7.35 cubic feet (208 liters) or less.
 - (b) Equipment used exclusively for mixing and blending of materials to make adhesives where no organic solvents are used and no materials in powder form are added.
 - (c) Equipment used exclusively for mixing and blending of materials to make water emulsions of asphalt, grease, oils, or waxes where no materials in powder or fiber form are added.
 - (d) Mills, mixers, post mixing stations and dispersers, with a capacity of less than 251 gallons (950 liters) used exclusively to mix, grind, or thin liquid surface coating, where none of the ingredients exceed 125°F (51.7°C) and no VOC or solvents are used and no supplemental heat is added.
 - (e) Concrete mixers, with a rated working capacity of less than one cubic yard.
- (12) Fabric Cleaning and Dyeing Equipment.
- (a) Equipment used exclusively for dyeing, stripping, or bleaching of textiles where no organic solvents, diluents, or thinners are used.
 - (b) Laundry dryers, extractors, or tumblers used for fabrics cleaned only with water solutions of bleach or detergent, and control equipment exclusively venting such equipment.
- (13) Miscellaneous Process Equipment.
- (a) Equipment used exclusively for bonding lining to brake shoes where no organic solvents are used.
 - (b) Equipment used exclusively to liquefy or separate oxygen, nitrogen, or the rare gases from air except equipment not exempt pursuant to subparagraph (E)(2)(a) or (E)(2)(b).
 - (c) Porcelain enameling furnaces, porcelain enameling drying ovens, or vitreous enameling drying ovens, except those units fired with fuel oil provided that such ovens are exempt pursuant to subparagraph (E)(2)(b).
 - (d) Equipment used exclusively for surface preparation, cleaning, and/or stripping which uses acetic acid, alkaline oxidizing agents, hydrogen peroxide, salt solutions, sodium hydroxide and/or water. (Does not include chemical milling, circuit board etching, or the stripping of chromium).

- (e) Equipment used exclusively for electrolytic plating (excluding the use of chromic, hydrochloric or sulfuric acid) or electrolytic stripping (excluding the use of chromic, hydrochloric, nitric or sulfuric acid) of brass, bronze, copper, iron, tin, zinc, precious metals, and associated rinse tanks.
- (f) Equipment used exclusively for packaging of lubricants or greases.
- (g) Kilns with a rating of less than 2,000,000 Btu (504,000 kilogram calories) per hour used exclusively for firing ceramic ware except those fired by fuel oil (does not include wax burnout kilns).
- (h) Equipment used exclusively for coating objects with oils, melted waxes or grease and which contain no organic solvents, diluents, or thinners.
- (i) Equipment used exclusively for coating objects by dipping in waxes or natural and synthetic resins which contain no organic solvents, diluents, or thinners.
- (j) Unheated, non-conveyorized, non-agitated solvent rinsing containers and unheated non-conveyorized coating dip tanks with:
 - (i) An open surface area of less than 10.8 square feet (1.0 square meter) and an internal volume of less than 92.5 gallons (350 liters), and;
 - (ii) Only organic solvents with an initial boiling point of 302°F (150°C) or greater as determined by ASTM test method 1078-66, "Standard Test Method for Distillation Range of Volatile Organic Liquids" and;
 - (iii) Less than 25 gallons (94.6 liters) of solvent per year are lost to the atmosphere from all such equipment. Solvent lost shall not include solvent that is recycled or disposed of properly.
- (k) Batch ovens of less than 53 cubic feet (1.5 cubic meters) of internal volume where no melting occurs except:
 - (i) Ovens used to cure vinyl plastisols.
 - (ii) Ovens used to debond brake shoes.
 - (iii) These exemptions are allowed provided that such ovens are exempt pursuant to subsection (E)(2)(b).
- (l) Equipment used exclusively for washing or drying materials provided that no VOC are used in the process or that no fuel oil or solid fuel is burned.
- (m) Equipment used exclusively for manufacturing soap or detergent bars, including mixing tanks, roll mills, plodders, cutters, wrappers, where no heating, drying or chemical reactions occur.
- (n) Spray coating equipment operated within control enclosures.

- (o) Airless spray coating equipment used exclusively for water reducible coatings using less than three gallons per day.
 - (p) Surface coating and spray coating equipment using a combined total of less than one gallon-per-day (3.8 liters per day) of paint and solvent (does not include control enclosures).
 - (q) Spray coating equipment and control enclosure used exclusively in primary and secondary schools; for instructional purposes only.
 - (r) Inert gas generators except equipment not exempt pursuant to subparagraph (E)(2)(b).
 - (s) Hammermills used exclusively to process aluminum cans.
 - (t) Heated degreasers with a liquid surface area of less than 1 square foot (930 square centimeters).
 - (u) Paper baling and associated shredding equipment and conveying systems serving such equipment and control equipment venting such equipment.
 - (v) Architectural surface coatings equipment used for business and residential structures.
 - (w) Oil/water separators that process water contaminated with petroleum products whose Reid Vapor Pressure does not exceed 0.5 pound per square inch (25 mm Hg).
- (14) Storage and Transfer Equipment.
- (a) Equipment used exclusively for the storage and transfer of fresh, commercial, or purer grades of:
 - (i) Sulfuric acid or phosphoric acid with an acid strength of less than 99 percent weight by weight as determined by test method ASTM E 223-88 or an equivalent method approved by the APCO.
 - (ii) Nitric acid with an acid strength of less than 70 percent weight by weight as determined by test method ASTM D 891-89 or an equivalent method approved by the APCO.
 - (b) Equipment used exclusively for the storage of Public Utilities Commission regulated natural gas and liquefied gases.
 - (c) Equipment used exclusively for the transfer of less than 20,000 gallons (75,700 liters) per day of organic material or equipment used exclusively for the storage of the following:

- (i) Unheated organic material with an initial boiling point of 302° F (150° C) or greater, or with an organic vapor pressure of 5 mm Hg (0.1 psia) or less at 70° F (21.1° C) as determined by the following ASTM test methods:
 - a. ASTM D 2879-86. "Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope"
 - b. ASTM 1078-86. "Standard Test Method for Distillation Range of Volatile Organic Liquids"
 - (ii) Fuel oils with 0.9042 specific gravity or higher (25° API or lower) as determined by test method ASTM D 287 or D 1298, or an equivalent method approved by the APCO.
 - (iii) Fuel oils with 0.8251 specific gravity or higher (40° API or lower) and having a storage capacity of less than 40,000 gallons (151,515 liters) as determined by test method ASTM D 287 or D 1298, or an equivalent method approved by the APCO.
- (d) Equipment used exclusively for transferring organic liquids, materials containing organic liquids, or compressed gases into containers of less than 60 gallons (225 liters) capacity, except equipment used for transferring more than 1,057 gallons (4,000 liters) per day of materials with a vapor pressure greater than 25.8 mm Hg (0.5 psia) at operating conditions.
- (e) Equipment with a capacity of less than 793 gallons (3,000 liters) used exclusively for the storage and transfer of any oil that has been used for its intended purpose and is subsequently designated for disposal or recycling.
- (f) Unheated underground equipment used exclusively for the storage of less than 6,077 gallons (23,000 liters) of organic liquids with a vapor pressure of less than 77.5 mm Hg (1.5 psi) absolute under actual storage conditions as determined by test method ASTM D 2879-86 or an equivalent method approved by the APCO, and equipment used exclusively for the transfer from such storage.
- (g) Equipment used exclusively for the storage and transfer of liquid soaps, liquid detergents, vegetable oils, fatty acids, waxes, and wax emulsions.
- (h) Equipment used exclusively for the storage and transfer of refined lubricating oils.
- (i) Equipment used exclusively for the storage and transfer of gasoline having a storage capacity of less than 250 gallons (946 liters).

- (j) Equipment used exclusively for the storage and transfer of "top white" (Fancy) or cosmetic grade tallow or edible animal fats intended for human consumption and of sufficient quality to be certifiable for United States markets.
 - (k) Equipment used exclusively for the storage, holding, melting, and transfer of asphalt or coal tar pitch with a capacity of less than 148 gallons (560 liters).
 - (l) Unheated solvent dispensing containers with capacity not more than 250 gallons (947 liters).
 - (m) Mobile transport tanks or delivery tanks or cargo tanks on vehicles for delivery of VOC, except asphalt tankers, used to transport and transfer hot asphalt for roofing application.
- (15) Exceptions.
- (a) A written permit may be required for any process, article, machine, equipment, or other contrivance, not otherwise subject to such permit requirements, if:
 - (i) The process, article, machine, equipment, or other contrivance is subject to New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAPS), Maximum Available Control Technology (MACT), Airborne Toxic Control Measure (ATCM) or any source specific prohibitory rule, or;
 - (ii) The process, article, machine, equipment, or other contrivance emits, in quantities determined to be appropriate for review by the APCO, substances identified as toxic air contaminants or which are under review as candidate toxic air contaminants by the California Air Resources Board, or Federal EPA, or;
 - (iii) The APCO makes a determination that a permit shall be required because the equipment may not operate in compliance with all district rules and regulations.

(F) Recordkeeping

- (1) Any person claiming exemptions under the provisions of this rule shall provide adequate records and any applicable Material Safety Data Sheets (MSDS) to verify and maintain any exemption. Such records shall be retained on-site for at least two (2) years. Any test method used to verify the percentages, concentration, vapor pressures, etc., shall be District approved.

[SIP: Submitted as amended on mm/dd/yy on _____; Submitted as amended 04/25/05 on _____; Submitted as amended 10/23/00 on 10/30/01; Submitted as amended 12/21/94 on 1/24/95; Submitted as amended 11/25/91 on 1/28/92, Approved: 11/9/78, 43 FR 52237, 40 CFR 52.220(c)(39)(ii)(B) and 40 CFR 52.220(c)(31)(vi)(C)]

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Appendix “B”
Public Notice Documents

1. Draft Proof of Publication – Daily Press 05/28/2010
2. Draft Proof of Publication – Riverside Press Enterprise 05/28/2010

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NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD) will conduct a public hearing on 06/28/2010 at 10:00 A.M. to consider the proposed amendment of Rule 219 – *Equipment Not Requiring a Permit*.

SAID HEARING will be conducted in the Governing Board Chambers located at the MDAQMD offices 14306 Park Avenue, Victorville, CA 92392-2310 where all interested persons may be present and be heard. Copies of the proposed amendment of Rule 219 – *Equipment Not Requiring a Permit* and the Staff Report are on file and may be obtained from the Clerk of the Governing Board at the MDAQMD Offices. Written comments may be submitted to Eldon Heaston, Deputy APCO at the above office address. Written comments must be received no later than close of business 06/25/2010 to be considered. If you have any questions you may contact Tracy Walters at (760) 245-1661 extension 6122 for further information.

Previously, all agricultural activities were exempted from air district permitting by state law (former Health & Safety (H&S) Code §42310). Recently the federal government required the State of California to regulate, through permitting, many previously exempt agricultural activities. California responded by adopting SB 700 in 2003 (H&S Code § 40724-40724.7) which contains provisions requiring air districts to adopt rules in part to regulate pollution from larger agricultural sources in the same manner as non-agricultural sources with similar equipment. The proposed amendments to Rule 219 – *Equipment Not Requiring a Permit* will implement portions of the provisions of SB 700 by requiring all agricultural sources that meet certain thresholds of animals or regulated pollutants to obtain permits in the same manner as other regulated sources. This rule action is a part of the entire implementation of SB 700 which also includes the adoption of Rules 403.3 – *Fugitive Dust Control for Off-site Agricultural Sources*, 403.4 – *Fugitive Dust Control for On-site Agricultural Sources*, 1160.1 – *Internal Combustion Engines in Agricultural Operations*, and 1186 – *Confined Animal Facilities*.

This amendment will also add a provision to include negligibly emitting fuel cells as specific equipment not requiring a permit. This is a similar provision to those contained in neighboring air district rules.

Pursuant to the California Environmental Quality Act (CEQA) the MDAQMD has determined that a Categorical Exemption (Class 8 – 14 Cal. Code Reg §15308) applies and has prepared a *Notice of Exemption* for this action.

Michele Baird
Clerk of the Board
Mojave Desert Air Quality Management District

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Michele Baird
Clerk of the Board
Mojave Desert Air Quality Management District

Appendix “C”

Public Comments and Responses

No comments received at his time.

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Appendix “D”
California Environmental Quality Act
Documentation

1. Draft Notice of Exemption – San Bernardino County
2. Draft Notice of Exemption – Riverside County

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NOTICE OF EXEMPTION

TO: County Clerk
San Bernardino County
385 N. Arrowhead, 2nd Floor
San Bernardino, CA 92415

FROM: Mojave Desert
Air Quality Management District
14306 Park Ave
Victorville, CA 92392-2310

☒ MDAQMD Clerk of the Governing Board

PROJECT TITLE: Amendment of Rule 219 – Equipment Not Requiring a Permit

PROJECT LOCATION – SPECIFIC: San Bernardino County portion of the Mojave Desert Air Basin and Palo Verde Valley portion of Riverside County.

PROJECT LOCATION – COUNTY: San Bernardino and Riverside Counties

DESCRIPTION OF PROJECT: The proposed amendments to Rule 219 are necessary to implement the provisions of Senate Bill 700 of 2003 (H&S Code §§40724-40724.7). This amendment will also add a provision to include negligibly emitting fuel cells as specific equipment not requiring a permit in a manner consistent with neighboring air district rules.

NAME OF PUBLIC AGENCY APPROVING PROJECT: Mojave Desert AQMD

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Mojave Desert AQMD

EXEMPT STATUS (CHECK ONE)

Ministerial (Pub. Res. Code §21080(b)(1); 14 Cal Code Reg. §15268)

Emergency Project (Pub. Res. Code §21080(b)(4); 14 Cal Code Reg. §15269(b))

☒ Categorical Exemption – Class 8 (14 Cal Code Reg. §15308)

REASONS WHY PROJECT IS EXEMPT: The proposed amendments to Rule 219 are exempt from CEQA review because they will not create any adverse impacts on the environment. The proposed amendments to Rule 219 – Equipment Not Requiring a Permit will implement portions of the provisions of SB 700 by requiring all agricultural sources that meet certain thresholds of animals or regulated pollutants to obtain permits like other regulated sources. The entire implementation of SB 700 as allowed by the amendment of rule 219 will reduce air emissions from agricultural sources. Pursuant to former H&S Code §42310(e), the District did not permit agricultural sources. In the MDAQMD Federal 8-Hour Ozone Attainment Plan (Western Mojave Desert Non-Attainment Area) adopted June 9, 2008, the District accounted for 0.72 tons per ozone seasonal day from farming operations. Even with completely uncontrolled agricultural sources, the District was able to show attainment. Now, the District is proposing to actively regulate agricultural facilities that emit over 50 tons per year of any regulated air pollutant other than NOx or VOC (over 12.5 tons per year), any single HAP (over 5 tons per year), any combined HAP (over 12.5 tons per year), or one-half the amount of any such lesser quantity of a single HAP that USEPA should establish by rule. The District should be able to quantify actual reductions from this combined rule action. Any control of this source category is more than what was previously controlled. Because there is not potential that the adoption might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

LEAD AGENCY CONTACT PERSON: Eldon Heaston **PHONE:** (760) 245-1661

SIGNATURE: _____ **TITLE:** Executive Director **DATE:** 06/28/2010

DATE RECEIVED FOR FILING:

NOTICE OF EXEMPTION

TO: Clerk/Recorder
Riverside County
3470 12th St.
Riverside, CA 92501

FROM: Mojave Desert
Air Quality Management District
14306 Park Ave
Victorville, CA 92392-2310

☒ MDAQMD Clerk of the Governing Board

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SIGNATURE: _____ **TITLE:** Executive Director **DATE:** 06/28/2010

DATE RECEIVED FOR FILING:

Appendix “E”

Bibliography

The following documents were consulted in the preparation of this staff report.

1. SB 700
2. Title 17, Division 1, Chapter 1, Subchapter 2.7, §86500, definition of Large Combined Animal Facility

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